

1 TITLE V TASK FORCE PUBLIC MEETING
2 CHICAGO, ILLINOIS

3 TRANSCRIPT OF PROCEEDINGS had in the
4 above-entitled cause on the 14th day of September,
5 A.D., 2004, at 8:00 a.m.

6 PRESENT:

7 U.S. ENVIRONMENTAL PROTECTION AGENCY
8 -Office of Air Quality Planning and Standards
9 Bill Harnett - Chair
10 Steve Hitte
11 Michael Ling
12 Ray Vogel
13 -Office of Enforcement and Compliance Assurance
14 Carol Holmes
15 -Office of General Counsel
16 Padmini Singh
17 -Region 8
18 Callie Videtich

19 TASK FORCE MEMBERS
20 -Shannon Broome, Air Permitting Forum
21 -Lauren Freeman, Utility Air Regulatory Group
22 -Steve Hagle, Texas Commission on
23 Environmental Quality
24 -John Higgins, New York Department of
Environmental Conservation
-Bob Hodanbosi, Ohio Environmental Protection
Agency
-Shelley Kaderly, Nebraska Department of
Environmental Quality
-Marcie Keever, Our Children's Earth
-Bob Morehouse, ExxonMobil
-Verena Owen, Lake County Conservation Alliance
-Bob Palzer, Sierra Club
-Bernie Paul, Eli Lilly
-Keri Powell, New York Public Interest
Research Group
-Adan Schwartz, Bay Area Air Quality
Management District
-Don van der Vaart, North Carolina Department
of Environment and Natural Resources
-Richard Van Frank, Improving Kids' Environment
-David Golden, Eastman Chemical
-Kelly Haragan, Environmental Integrity Project
-Mike Wood, Weyerhaeuser

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 2 -Graham Fitzsimons
 3 -Shannon Cox

3 I N D E X

4		PAGE
5	Steven Murawski - Gardner, Carton & Douglas	13
6	Bruce Nilles - Sierra Club	68
7	Bill Wilson - Environmental Integrity Project	95
8	Scott Evans - Clean Air Engineering	106
9	Steve Meyers - General Electric	163
10	Anne Slaughter Andrew - CASE Coalition	188
11	Kathy Andria - American Bottom Conservancy	218
12	Keith Harley -Chicago Environmental Law Clinic	268
13	Dale Kalina - RR Donnelley	292
14	Brian Urbaszewski - American Lung Association	318
15	Maureen Headington - Stand Up/Save Lives	335

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1 MR. HARNETT: I want to thank everyone for
2 coming here today, and I want to thank, again, the
3 task force for volunteering to do this effort with
4 us. We're here today because the Clean Air Act
5 advisory committee, which provides advice to EPA
6 about its clean air programs, created this task
7 force to look at the implementation of the Title V
8 program. And now that we're 10 years down the
9 road -- actually closer to 14 -- how has it been
10 actually proceeding, and what is going right out
11 there, and what problems are being encountered out
12 there.

13 Now that we have tremendous experience,
14 we felt this was a good time to actually take a
15 look at the issue.

16 We were charged by them with two
17 particular questions, which is just how well is it
18 performing and what are the elements that are
19 working well or poorly, as it were?

20 They've asked this task force to create
21 a report to answer these questions based on the
22 information we both gather today and in any
23 subsequent types of public meetings or in phone
24 conversations. We are also going to collect

1 information in written comments through next March
2 as well.

3 The guidance they gave us is the report
4 should reflect the perspective of all the
5 different stakeholder groups, both the permitting
6 agencies, the industry getting permits, and the
7 public participating in the permitting process.
8 And that it should also reflect to the maximum
9 degree possible the real world experiences people
10 have been encountering with the program.

11 It's critical for the speakers today
12 that the more real examples we can have, the more
13 useful it is to you or to us, rather. The report
14 is supposed to describe the information exactly
15 about what's working well and any other kind of
16 beneficial outcomes that are coming with the
17 program. And it may also, in the end, make
18 recommendations about how to improve the program
19 overall.

20 I'm optimistic that everything we will
21 be getting both today and throughout the process
22 is going to be very helpful in deciding how to
23 move forward as an agency in the overall Title V
24 program.

1 In a moment we'll go around up front
2 here and introduce ourselves and give you a
3 feeling for who all of us are and what our
4 backgrounds are. Our goal overall today is to
5 ensure everyone with information relative to the
6 mission will have a chance to be heard. We've set
7 up the meeting with that in mind.

8 We have also structured enough time for
9 both presentation and questions. It's become
10 obvious in our first meeting of this sort that the
11 questions that we did have of different speakers
12 was extremely valuable. So we will be limiting
13 speakers to no more than 15 minutes of direct talk
14 themselves, and then there will be additional time
15 for questions with them. We will be constraining
16 the whole time to a half hour per speaker for the
17 ones that have signed up today. We do have some
18 additional slots for those who haven't signed up
19 who are interested, and they can do that outside,
20 and we'll keep that updated as the day goes on.

21 We would like each person to introduce
22 themselves and give some background so we
23 understand a bit what their sort of basic
24 experience is with Title V before making the

1 presentation. It's helpful to us in understanding
2 things.

3 Overall, we're keeping a transcript of
4 this meeting and all the other ones that we hold,
5 so we do have a court reporter, and the whole
6 meeting will be recorded. For that purpose, with
7 the people around the table, just a reminder that
8 when you're going to ask a question, that we need
9 to get a microphone to you so that you can speak
10 into that. That will help both the court reporter
11 and the recording of it.

12 To the degree the speakers can, it's
13 useful if you could sit directly across from me.
14 We will give you support on managing your
15 materials, if you have a presentation. But it is
16 a useful thing if you're sort of sitting and
17 working with us in a sense. But if you wish to
18 use the podium, that's available as well.

19 I will give you warnings when you have
20 two minutes left of your time. I will also give
21 all of us a warning when we're running out of the
22 30 minutes each time.

23 There tentatively will be one more
24 meeting of this type that we're planning, probably

1 in the early part of next year, and we'll put out
2 a public notice on it. Tentatively we're going
3 out West, it looks like San Francisco, for the
4 last of our public meetings.

5 For today, just some logistics. We will
6 be breaking for lunch at 12:30 to 1:30. We will
7 also break at the end of the day at 5:15 and take
8 a two-hour break for dinner and come back for an
9 evening session beginning at 7:15 this evening.

10 And at this point I would like everybody
11 to introduce themselves. I'm Bill Harnett. I'm
12 with the EPA's Office of Air and Radiation. I
13 manage the division that has the new source review
14 permitting program and the Title V permitting
15 program in it.

16 MR. GOLDEN: I'm David Golden with Eastman
17 Chemical Company. I'm a lawyer with Eastman, used
18 to be outside counsel as well, and have worked on
19 about 45 Title V permits in a dozen states.

20 MR. HAGLE: I'm Steve Hagle. I'm with the
21 Texas Commission on Environmental Quality, the air
22 permits division. I've worked since about 1987 in
23 air permits, both new source review and Title V.

24 MS. HARAGAN: I'm Kelly Haragan. I'm with

1 the Environmental Integrity Project in D.C. Prior
2 to that I was a public citizen in Texas, and
3 that's where most of my Title V experience is.

4 MS. HOLMES: I'm Carol Holmes. I'm in the
5 air enforcement division of EPA, and I've been
6 doing permitting since before I came to the agency
7 about eight years ago.

8 MS. SINGH: I'm Padmini Singh, and I work in
9 the Office of General Counsel at EPA and work on
10 Title V issues.

11 MR. HODANBOSI: I'm Bob Hodanbosi with Ohio
12 EPA. I will not put on the record how many years
13 I've been doing air permits; just many. Also, I
14 am chair of the STAPPA permitting committee.

15 MR. WOOD: I'm Mike Wood with Weyerhaeuser
16 Company. I'm an environmental affairs manager in
17 the Midsouth region of the United States. I
18 support our facilities in Arkansas, Oklahoma, and
19 Texas. I hope to provide a perspective of air
20 permitting to the task force, from a forest
21 products and paper manufacturing perspective, as
22 well as from a general industry perspective in the
23 Midsouth.

24 MS. POWELL: I'm Keri Powell, representing

1 the New York Public Interest Research Group. I've
2 filed comments on dozens of permits and petitions
3 with EPA and have also helped instruct citizens on
4 how to participate in the process at training
5 conferences across the country.

6 MR. HITTE: My name is Steve Hitte. I work
7 for the U.S. Environmental Protection Agency with
8 Mr. Harnett. My principal function is to manage
9 first-line supervisor of the Title V program.

10 MS. BROOME: Good morning. My name is
11 Shannon Broome. I'm with the Air Permitting
12 Forum, which is an industry group. I too have
13 filed comments on dozens and dozens of permits,
14 and done permit appeals, and that's basically what
15 I do all day long.

16 MR. VOGEL: I'm Ray Vogel with the EPA in
17 North Carolina. I helped develop the 1992
18 regulations for Part 70. I'm also here just
19 helping to support the task force, whatever
20 capacity they desire.

21 MS. VIDETICH: My name is Callie Videtich,
22 with EPA Region 8 in Denver. I manage in part the
23 permitting program in Region 8.

24 MR. SCHWARTZ: Adan Schwartz; I'm an attorney

1 with San Francisco Bay Area Air Quality Management
2 District. In the early '90s I helped Ray help
3 draft the Part 70 regulations, and then I was
4 later in the '90s in Region 10 Seattle, with EPA.
5 Now I'm working actually writing -- helping write
6 Title V permits in the Bay Area.

7 MR. VAN FRANK: I'm Richard M. Van Frank.
8 I'm president of Improving Kids' Environment in
9 Indianapolis, Indiana. I previously served on the
10 Indiana State Air Pollution Control Board and have
11 been involved in air issues for a number of years.

12 MR. VAN DER VAART: I'm Don van der Vaart.
13 I'm the head of major source permitting in North
14 Carolina. Prior to coming to the state, I worked
15 both for oil industry and utilities.

16 MR. PAUL: I'm Bernie Paul with Eli Lilly in
17 Indianapolis. I've been working on air permitting
18 issues for about 18 years, both with a local
19 agency and for Eli Lilly. In the '60s and '70s, I
20 was a little kid riding my bike, playing baseball,
21 and did stuff like that.

22 MS. OWEN: I'm Verena Owen with the Lake
23 County Conservation Alliance in Illinois. We are
24 an umbrella organization for small grass-roots

1 organizations. So we have done Title V work both
2 on our own behalf and with other groups on
3 countless permits and a variety of sources.

4 MR. MOREHOUSE: I'm Bob Morehouse,
5 ExxonMobil, responsible for a team that does --
6 involved in regulatory development and compliance
7 support.

8 MR. LING: I'm Michael Ling. I've been
9 involved in air permitting since 1992, almost all
10 of that with EPA, and I'm currently on the staff
11 of Bill Harnett at the Office of Air Quality
12 Planning and Standards.

13 MS. KEEVER: I'm Marcie Kever. I'm with Our
14 Children's Earth, and we've commented on, like
15 Keri said, dozens of Title V permits in the Bay
16 Area in San Francisco. Prior to that, actually,
17 my work was on behalf of OCE with the
18 Environmental Law and Justice Clinic at Golden
19 Gate University and have filed a number of
20 petitions and helped citizens comment on Title V
21 permits in the Bay Area and across the country.

22 MS. KADERLY: I'm Shelley Kaderly. I'm the
23 division administrator for the State of Nebraska
24 Air Quality Program. I've -- when I first started

1 working in the air program, my first job was in
2 permitting. I was one of the engineers hired out
3 of the Title V fund that we got in the state, and
4 so I've been working in some area of Title V
5 permitting for the last 10 years or so.

6 MR. HIGGINS: I'm John Higgins. I'm the
7 assistant director of the division of air
8 resources in New York State Department of
9 Environmental Conservation. I started doing air
10 pollution work back when Lyndon Johnson was
11 president.

12 MR. PALZER: I'm Bob Palzer. I'm the senior
13 policy analyst for the Sierra Club air committee.
14 I've been working on air issues for several
15 decades and have commented on Title V permits in
16 many states and given advice to others on the
17 program that live in southern Oregon.

18 MS. FREEMAN: Thank you. I'm Lauren Freeman.
19 I'm with the law firm of Hunton & Williams in
20 Washington, D.C., and I'm here representing the
21 Utility Air Regulatory Group, which is a group of
22 40 or 60 individual utilities, as well as several
23 trade organizations focusing on utility issues. I
24 counsel the group on Title V issues, participate

1 in rule-makings and work with individual utilities
2 on Title V issues.

3 MR. HARNETT: Two other simple things. One
4 is, the rest rooms for the facility are located
5 through the back, are up the stairs and off to the
6 left.

7 One final reminder for the task force
8 members is that they need to raise their cards in
9 order to tell who would like to question a
10 particular person who's making the presentation.

11 At this point I'd like to welcome the
12 first person up who is on our agenda, which is
13 Steve Murawski, I believe.

14 MR. MURAWSKI: Yes.

15 Good morning everybody. My name is
16 Steven Murawski. I work with Gardner, Carton &
17 Douglas, in a law firm based out of Chicago.

18 I really appreciate the opportunity to
19 be the first speaker of today's task force
20 inquiry. I think it's really important that the
21 EPA and state agencies understand exactly the
22 different perspectives that come to Title V
23 permitting.

24 The way that I have approached this

1 presentation is I've tried to take a very almost
2 nuts-and-bolts practical approach to both the
3 comments that are positive and also the issues
4 that I've seen during Title V permitting and
5 enforcement and appeals, and also maybe some
6 suggestions that are an outgrowth of my former
7 life as an agency attorney at EPA.

8 Just an introduction of what I'm going
9 to present, perspective and experience in response
10 to Mr. Harnett's request to talk about exactly
11 where we're coming from and how we've come to
12 develop our comments.

13 I'll talk about the positive aspects of
14 the Title V program, and even though there are
15 only two slides, there are many more. But what I
16 was trying to do is talk more about the issues and
17 recommendations and focus on those, and that's the
18 last part.

19 My experience, I was a former regional
20 counsel for Region 5. I also, since that time,
21 have joined Gardner, Carton & Douglas, and in both
22 capacities have really focused on Clean Air Act
23 compliance counseling and enforcement.

24 Where I've seen it, I've seen it in

1 initial applications, permit modifications,
2 renewal applications, enforcement. And one thing
3 I didn't say up here, but it does exist, is
4 appeals that we've had to do more frequently
5 lately.

6 Now, for the positive aspects of Title V
7 process, again, only two slides, but there are
8 many more. I really want to start off by saying
9 state agencies are really doing a lot of work, and
10 I do appreciate it, and despite the comments
11 later, I recognize all their efforts;
12 short-staffed, underfunded, but they're really
13 doing the best they can. I understand that, but
14 these comments are despite that.

15 Most states have clear Title V
16 permitting rules in there -- either in statute or
17 regulation that mirror the federal rules, which
18 makes it easy if you're bridging a number of
19 jurisdictions when you're looking at Title V
20 permits, so that's very helpful.

21 What's also helpful is that I see a
22 number of states now have application forms which
23 make a lot of the analysis really easy,
24 especially, for instance, for CAM plans,

1 development. I see, for instance, Illinois has a
2 CAM plan form, which really focuses on answering
3 questions. By the end of the form, you know
4 whether or not you need one. Those things are
5 very helpful to companies.

6 And then finally, states are
7 increasingly providing access to their rules,
8 their policies, and also the ability to apply
9 on-line through the Internet. And I think that is
10 great because it's a cost-saving measure. So, you
11 know, in essence even the environmentalists in the
12 room will agree that that's a great option, saving
13 on paper there.

14 In general, I think the permit engineers
15 who work on the Title V permits are really helpful
16 and willing to work with companies to develop the
17 best permits. Sometimes it doesn't happen on the
18 initial permit issuance, and, you know, it takes
19 about six months of shakeout to get the provisions
20 that don't work. But overall I've seen that most
21 state agencies and most permit engineers are
22 really willing to work with the companies to
23 develop worthwhile permits.

24 For the final section, issues and

1 recommendations, I've really broke it down to four
2 major categories; permit processing, regulatory
3 citations and permit requirements, any kind of
4 additional guidance which fell out of those two,
5 and then training.

6 Regarding permit processing, the
7 recommendation -- the first recommendation would
8 be that Title V forms, permits, and policies
9 should be uniform throughout all of the
10 jurisdictions. It's very frustrating to -- in
11 some ways to assist folks who have a Title V
12 permit that's five pages versus a Title V permit
13 that might be 300 pages.

14 And what I think might be worthwhile is
15 if this task force consider a couple of states
16 that have marquis Title V programs and permits
17 that are easy to read, easily understandable, and
18 really satisfy all of the U.S. EPA's goals of the
19 Title V program, and offer those to all the states
20 as templates. I really think that that would be
21 worthwhile and really would help companies such as
22 ones that I represent that have a number of
23 facilities in multiple jurisdictions.

24 And also, allow agency guidance to

1 really be -- to really cross over into multiple
2 jurisdictions rather than maybe focusing on one or
3 two jurisdictions that have Title V permits that
4 respond to that particular guidance.

5 The next, obviously it's funding. I
6 recognize funding is an issue, but really, state
7 permit programs should be adequately staffed to
8 timely process permits. I won't go into that
9 because obviously there has been a lot of
10 litigation on that issue.

11 But in response to that I would say that
12 an idea is to allow facilities to really write
13 their own permits using a state or federal
14 template, and offer that to the state as a
15 starting point to negotiate a final Title V
16 permit. I think that it would save a lot of state
17 resources or federal resources, if they're writing
18 the permit, to allow the facility to really -- who
19 knows the facility very well, to offer to do the
20 first draft of a Title V permit. I know a lot of
21 clients who would be willing to do that, and I
22 think that that would satisfy some of the concerns
23 with understaffing and timely processing of
24 permits.

1 Another issue is that the knowledge of
2 the permit engineer really shows in a first draft
3 of a permit, and I recognize that some engineers
4 might be starting out their careers for the first
5 time writing their first Title V permit, but a
6 recommendation I have is that if a permit engineer
7 is writing a Title V permit for a larger facility
8 or even small facilities, maybe they should reach
9 out to that facility and see whether or not the
10 facility would be willing to give them a tour or
11 some other kind of incorporation into
12 understanding how the business works so that a
13 very well thought out Title V could be written.

14 And a related comment would be to have
15 permit engineers sort of specialize in different
16 industries; for instance, petrochemical
17 manufacturing, steel manufacturing, things like
18 that. So that way when they're writing permits,
19 it will be easier for them to understand the types
20 of units that they're regulating.

21 Another recommendation would be to allow
22 as a matter of course the Title V permittees to
23 review the pre-public comment permit so that you
24 can talk about minor administrative errors that

1 could be corrected immediately prior to public
2 comment. You can offer the ability of the Title V
3 permittee to update stale applications. And I
4 know that there is affirmative obligation to
5 update applications, but from a practical
6 standpoint, many states will say, "Don't send us
7 updated application materials. We're not going to
8 process your material for a long time. Wait until
9 we're ready to do it." So this would offer an
10 opportunity to update those stale applications.

11 Then I guess the third thing is it would
12 limit the number of modifications that are
13 requested in the public comment period between the
14 draft permit and the final permit issuance. So it
15 would -- you would have a similar permit in draft
16 form and final form that the facility could live
17 with, absent other comments from the outside
18 community that might impact that permit.

19 There are a number of industries that
20 have unique permitting situations, and the
21 recommendation here really is to have states reach
22 out to the U.S. EPA during the permit process
23 before the public comment period. If there is
24 going to be complex terms and conditions imposed

1 upon the facility, or if the state is unsure of
2 exactly how to regulate certain units, the
3 recommendation really would be to have the state
4 reach out during the drafting of the permit to the
5 U.S. EPA region so that you can resolve those
6 issues and avoid objections to the permit.

7 And then just for permit modification
8 processing, just many of the states have time
9 limits. The recommendation would be to follow
10 those time limits. I realize the number of states
11 have resource constraints, and they're still
12 issuing some initial Title V permits, but updates
13 of those permits are really important to many of
14 the permittees. And as a second suggestion --
15 this is probably pie in the sky -- maybe offer a
16 way to have expedited processing for significant
17 permit modifications under limited circumstances
18 for projects that are time-sensitive because some
19 projects need to be accomplished quickly to take
20 advantage of the economy, et cetera.

21 One thing I've noticed, and this is an
22 isolated incident, but really there was nothing
23 out there that discussed the objection process
24 that -- there was one document out there, but it

1 wasn't really clear on the objection process after
2 the U.S. EPA continues to disagree with the state
3 changes to a permit. And the only request here
4 would be to maybe issue some sort of guidance
5 document or statement on exactly what that process
6 would be after -- you know, throughout the
7 objection process, outside of the statutory
8 language, which I think is a little bit unclear.

9 Next, going on to regulatory citations
10 and permit requirements, regarding regulatory
11 citations, there are a couple of states in their
12 Title V permits that will include the entire
13 regulation, if a source is subject to NESHAP
14 standards. I saw a permit that was over 500 pages
15 because it had three subparts of a NESHAP standard
16 verbatim in the Title V permit, as part of the
17 Title V permit.

18 I just think that from a permitting
19 standpoint, that's really unnecessary. And
20 secondly, if a NESHAP standard changes, you would
21 have to get a permit update or, you know,
22 obviously if the permit contains a condition in
23 there that says it automatically updates if the
24 law changes, but still I think it's really

1 unnecessary and clouds up the real meat of the
2 permit, and so that's something that should be
3 discouraged.

4 Another issue is that certain permits
5 will include the entire language of a particular
6 regulation, even though there are options for
7 compliance. And I'll give you an example.

8 Say a NESHAP standard provision has
9 three options to demonstrate compliance with that
10 particular provision. I'll see Title V permits
11 with all three provisions in there without
12 guidance on the permittee must comply with one of
13 those. So in essence, every year there is a
14 permit violation because they're not meeting two
15 of those options. And the suggestion really is
16 when the permit is being written, either put in
17 the compliance option chosen by the facility or
18 just cite the regulation. That's really the
19 simplest way to overcome this issue, because it
20 does become more of an issue when you're doing the
21 compliance certification and the client is calling
22 you up and saying, "I haven't done this." Well,
23 then there is noncompliance. So that's the
24 problem.

1 And then avoid paraphrasing regulations.
2 I see these mostly in inspection authority, and I
3 don't know if it's purposeful or not, but really
4 the authority should be the authority granted by
5 statute and regulations, and sometimes
6 paraphrasing can cloud exactly what the
7 regulations will require.

8 I see that I have only two minutes. At
9 this time I'd like to incorporate all of my
10 comments into the record if possible, because I'm
11 not going to finish. I offer anybody, if they
12 want additional information on any of the comments
13 that I've provided, to please contact me. Contact
14 information, Ray Vogel has it.

15 Now, the U.S. EPA has recently confirmed
16 that monitoring requirements should only be those
17 required by law, but we still see permit
18 provisions that include additional monitoring,
19 outside what I believe is statutory or existing
20 statutory to legal or regulatory authority, and
21 this is just a responsive slide to that.

22 The additional thing I'd like to tell
23 the states is that each additional monitoring
24 requirement can be very costly, and so it might

1 not be a big deal to change something from once
2 per day to once per shift, but when you're talking
3 about hundreds and hundreds of monitoring points,
4 that is a significant cost increase. So in
5 essence, keep with the regulations when you impose
6 monitoring requirements, if at all possible.

7 Also, short-term emission limits; this
8 is a consistent problem with many Title V permits,
9 and what happens is an annual emission limit will
10 be divided by 12, and then that will be the
11 monthly limit. And really, for some businesses
12 that will never work because there are a number of
13 clients I have that have seasonal production. So
14 when they get their Title V and they have an
15 emission limit that limits their monthly
16 production in their biggest months, they can't --
17 basically it's curtailing their production, but on
18 an annual basis, they will easily meet annual
19 emission limits.

20 So in essence, the recommendation here
21 would be to contact the facility, really
22 understand the business a little bit, and develop
23 limits based on those understandings. Thank you.

24 MR. HARNETT: And we will consider your full

1 set of comments for the record.

2 Questions? Shannon?

3 MS. BROOME: Thanks for coming today. Just
4 one question on your last point. I don't think
5 you probably got to finish. Have you been
6 challenging or have your clients been
7 challenging -- it sounds like that would be a new
8 substantive requirement, to take a 12-month limit
9 and impose an absolute monthly limit, as opposed
10 to making it a roll or something like that. Or
11 are they saying just monitor it? What's actually
12 happening, and are people challenging it if they
13 view it as a new substantive limit?

14 MR. MURAWSKI: If these facilities'
15 production cannot meet that limit, then we have
16 been challenging it. If we've been offered the
17 opportunity to do -- to conduct pre-permit -- or
18 pre-public comment review, we explain the
19 situation and tell them that monthly production
20 doesn't work like that. And normally states will
21 be responsive to that. But occasionally we won't
22 get the opportunity to -- to comment on a
23 pre-public comment permit and will be forced to
24 submit comments during a public comment period and

1 cross our fingers that the provision will be
2 changed in the final permit when it's issued.

3 MS. BROOME: Thank you very much.

4 MR. HARNETT: Kelly?

5 MS. HARAGAN: You suggested that we kind of
6 gather good examples of permits from different
7 states, and I was wondering if you had permits in
8 mind that you thought were good, and if you could
9 give us kind of a list of things that you look for
10 in a permit when you're determining whether it's a
11 good permit or not.

12 MR. MURAWSKI: Well, I think my favorite
13 permit is Illinois's permit. Maybe it's because I
14 see a lot of them. But what Illinois has done
15 with their permits and their forms is they've
16 really made them very clear.

17 And the reason why I like Illinois's
18 permits is they've sectioned off the different
19 areas of regulated items. For instance, you have
20 your general regulations in the forefront of the
21 permit; you have your insignificant activities
22 independently regulated as part of the permit,
23 including the conditions that may or may not apply
24 to those units, even though they're insignificant

1 activities; you have the reporting requirements
2 toward the end that are general; and then within
3 the sections, each section is exactly the same as
4 far as how it regulates the unit.

5 And I think that Illinois is a great
6 example of a good permit, although some of the
7 permits that they've written in the past when they
8 were experimenting are not as good, but I think
9 that they have the form really well.

10 Another benefit that they do is at the
11 end of the permit, they include an attachment
12 which really lays out how to amend your permit
13 when you need it; administrative modification,
14 minor modification, or significant modification,
15 and I think that that's really beneficial.

16 And they include a recommended
17 certification statement, which is a little bit
18 over the top, but still it helps out as a base for
19 certification that is required with each document.

20 MR. HARNETT: Shelley Kaderly?

21 MS. KADERLY: I had a question regarding some
22 of your permit program issues and recommendations.

23 I was wondering whether you had any data
24 or information that would kind of help show how,

1 if a regulated entity were to prepare the initial
2 draft of the permit, how that would save time.
3 Because we've tried that in our state, and we
4 haven't found that it really has saved a
5 significant amount of time or resources because
6 there is still a lot of work to review the
7 application and the draft that you do have.

8 MR. MURAWSKI: Yeah, I don't have -- I mean,
9 I don't have any data on that.

10 MR. LING: Or an example?

11 MR. MURAWSKI: No, I don't because it's not
12 done, and that's why I'm recommending it. But the
13 reason why your state agency might not have
14 benefited from it is because the Title V permit
15 program in most states is still growing. I think
16 that a lot of the people who review Title V
17 permits, from my experience, there is a lot of
18 turnover in those permit review positions. And so
19 you end up getting people who either don't
20 understand the industry or who are writing their
21 first Title V permit involved in complicated Title
22 V permitting. And so they're learning as they go.

23 I mean, when they're done with their second or
24 third one, then they're experts.

1 MS. KADERLY: We also utilize contractor
2 assistance to help us for the last three years as
3 well. So in our particular case, our staffing
4 levels have been pretty static. But that's why
5 I'm wondering if you had any bigger information
6 to --

7 MR. MURAWSKI: No. It was really an
8 intuitive recommendation.

9 MS. KADERLY: Thank you.

10 MR. HARNETT: Carol Holmes?

11 MS. HOLMES: I just had a request. First of
12 all, thank you for coming, and I'm sure this
13 information you've given will be very helpful.

14 But I think it would be even more
15 helpful if you could give us actual examples of
16 some of the things that you've cited about,
17 especially when you're talking about the
18 regulatory citations, how there they were done
19 wrong or how the synthetic minor limits were set
20 incorrectly, because we have been chastised in the
21 past for relying on anecdotal information and not
22 specifics. If you could give us actual permits
23 for permit research, or the permit terms that you
24 think are wrong.

1 MR. MURAWSKI: I'd have to follow up the
2 meeting with actual permits.

3 MS. HOLMES: Right, yes.

4 MR. MURAWSKI: Because I sort of wrote this
5 yesterday. But really, each example and each
6 recommendation that I came up with in this
7 presentation has a basis in fact.

8 MS. HOLMES: Right. If you could just
9 provide those, that would be helpful, for us to
10 see the actual permits.

11 MR. MURAWSKI: Okay. I would certainly be
12 able to do that.

13 MS. HOLMES: Thank you.

14 MR. MURAWSKI: Obviously except for my
15 example to you.

16 MR. HARNETT: Bob Palzer?

17 MR. PALZER: Let's see if this is working.
18 Can you hear me okay?

19 MR. MURAWSKI: Yes.

20 MR. PALZER: In regards to your point about
21 not having short-term limits that are necessarily
22 taking the annual limit and dividing it by 12 for
23 a monthly limit, or presumably by 365 and coming
24 up with a daily limit, how do you square that with

1 a lot of the air standards are, in fact,
2 short-term limits, and that if you've got a number
3 of sources that show cyclical variability or upset
4 conditions or this sort of thing occurring at a
5 time when because of meteorological conditions or
6 other conditions, you are going to have an
7 exceedance of air standards?

8 MR. MURAWSKI: My comment really was on
9 short-term limits that are imposed outside of the
10 SIP emission limits that may already be imposed or
11 any kind of other limits that are already legally
12 required. These are over and above the SIP limits
13 or any other short-term limits that might have to
14 be complied with by a permittee.

15 Because in essence, the way that I view
16 the limits that I discussed is that they're really
17 recordkeeping requirements rather than emission
18 limits, and they're being treated as emission
19 limits. If you are meeting the SIP requirements,
20 if you are meeting NESHAP standards, if you are
21 meeting in any other NSPS standard that imposes
22 short-term limits, that additional limits based
23 on, you know, dividing by 12 really are
24 unnecessary. Those are more recordkeeping

1 requirements than limitations, and they're being
2 treated as limitations.

3 MR. PALZER: But, in fact, in real practice,
4 in Oregon, for example, when there weren't
5 originally short-term limits in the permits, you
6 had a number of sources that you couldn't enforce
7 an emissions limit because it wasn't in the
8 permit, and yet it was a combination of multiple
9 sources emitting at their maximum potential that
10 would create a condition where you were either
11 exceeding the standards or coming very close to
12 it.

13 So I don't see where you can necessarily
14 just put this in a SIP without having individual
15 entities being able to be contributing to whatever
16 you need to, to prevent an area going from
17 compliance to noncompliance.

18 MR. MURAWSKI: I don't disagree with you. I
19 think that there are certain circumstances where
20 short-term limits are absolutely required. What
21 I'm saying is that if those limits are imposed,
22 they should be responsive to how the business
23 produces its products.

24 So say, for instance, if you have a

1 seasonal manufacturer of certain goods where
2 production is only in summertime, and you impose
3 an equal monthly limitation on that production,
4 then really you're not recognizing their seasonal
5 production because they don't have any production
6 during the fall and winter, and, in fact, you
7 are -- you are taking away their ability to
8 produce products, and at the same time they are
9 not -- as long as they're not having emissions
10 above any other imposed emission levels.

11 MR. PALZER: So you're just going for a
12 reality. If you've got a seasonal operation that
13 only emits during a season, you'd like to see
14 those emissions or those limits apply toward
15 production cycles?

16 MR. MURAWSKI: Absolutely.

17 MR. PALZER: I understand. I still have the
18 other concern.

19 MR. HARNETT: Don van der Vaart?

20 MR. VAN DER VAART: When I was in school, it
21 was always a question of do you read the book or
22 do you listen to the professor first, and whoever
23 got second was always the one I liked because I
24 finally understand it then. Listening to you, it

1 kind of confirms everything we've seen. Some
2 things we do, some things we need to look at.

3 I had one question which seems a little
4 silly, but trust me, I just want to hear it. I've
5 read ahead a little.

6 It's your belief that Title V, under the
7 certification, requires you to certify both
8 periods of noncompliance and compliance?

9 MR. MURAWSKI: That's correct.

10 MR. VAN DER VAART: That's all.

11 MR. HARNETT: Mike Wood?

12 MR. WOOD: Hi Steve. You mentioned
13 electronic applications. Do you have an example
14 of someone who is accepting electronic
15 applications, and are those in lieu of paper
16 applications?

17 MR. MURAWSKI: I think you have the option of
18 submitting applications in electronic form or in
19 paper form, and if I'm not mistaken, it's Ohio EPA
20 might take applications -- that's right -- which
21 is very helpful. They're still long if you print
22 them out, but they're very helpful to submit the
23 information.

24 And then what's more helpful is that

1 when you go back to do your renewal application,
2 all the information is still there, and so you
3 just change what you need. Or if you have to
4 modify specific pages that you've created before,
5 you can do it on-line. It's really helpful.

6 MR. WOOD: Are those applications made
7 available to the public electronically?

8 MR. MURAWSKI: I believe they are. Region 5
9 has a link to all their states, and I believe they
10 have a link to Ohio EPA, who has electronic forms.
11 But I think most applications are available
12 on-line.

13 MR. WOOD: Thank you.

14 MR. HARNETT: Adan Schwartz?

15 MR. SCHWARTZ: I have two questions, if
16 that's allowed.

17 Going back to the short-term limits
18 discussion, you mentioned that these are -- the
19 short-term limits are being created as the
20 title -- with the issuance of the Title V permit.
21 If you can generalize, are permitting authorities
22 explaining that this is being done in fulfillment
23 of a Title V requirement, or instead is it being
24 done just contemporaneously with Title V issuance,

1 but in fulfillment of some other requirement
2 like EPA's practical enforceability guidance or
3 something like that?

4 MR. MURAWSKI: Most of the time that we've
5 seen these limits, they go without explanation,
6 but there are a number of states that incorporate
7 Title I construction permits directly verbatim
8 into the Title V permit. And occasionally what
9 will happen with those historical construction or
10 operating permit is that it will -- they'll change

11 slightly and increase monitoring provisions or
12 increase emission levels where they didn't have
13 them before, and that's really where we see the
14 difference.

15 And from the standpoint of reviewing a
16 Title V permit, it seems to be a new substantive
17 requirement; it creates an emission limit.

18 MR. SCHWARTZ: So it sounds like you're
19 saying they are doing it because they believe it
20 is required by Title V? Do I understand you?

21 MR. MURAWSKI: I don't know if they
22 believe it's a requirement of Title V. They just
23 do it.

24 MR. HARNETT: I think we should let someone

1 else have a question.

2 MR. SCHWARTZ: Okay, that's fine.

3 MR. HARNETT: Richard Van Frank, please?

4 MR. VAN FRANK: Under enforcement, you say
5 enforcement based on intermittent compliance,
6 identify an annual compliance certification should
7 be limited to special circumstances; actual harm
8 to human health or to the environment.

9 How would you define actual harm to
10 human health and to the environment? As acute or
11 chronic, cancer, noncancer, respiratory? It just
12 seems to me this would be a very difficult area to
13 get into.

14 MR. MURAWSKI: You're absolutely right, and I
15 don't have a definition.

16 The point that I'm trying to make -- and
17 this is on a slide I didn't present. The point
18 I'm trying to make with that particular slide is
19 that we're in a climate right now where audit
20 reporting is encouraged, and audit reporting has
21 been a great tool because companies can conduct
22 audit reports and really clean house and make sure
23 that everything is working right.

24 And the compliance certification process

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1 I see as Title V program is similar to that, and
2 it has that type of theme because every year
3 you're looking at your business, you're looking at
4 your requirements, you're making sure that
5 everything was done, and even minuscule things
6 like sending -- and I'm saying miniscule. I'm
7 going to get skewered. But the regulation in
8 Title V permit is down to an insignificant unit.
9 And so it's really, really small. And you're able
10 to review that every year.

11 And all I'm suggesting with this slide
12 is that the state agencies and the federal
13 government should be looking at the compliance --
14 the annual compliance certifications as sort of an
15 annual audit with its blessing, and that
16 enforcement, if based on the compliance
17 certification, should really be limited to unique
18 circumstances.

19 MR. HARNETT: We're going to have to move on
20 to the next speaker here, but thank you very much
21 for coming and bringing your comments today.

22 If I could ask John Metzger to join us
23 up here. John, I'm not sure if you were here at
24 the beginning, but if you could take a few seconds